

2013 DRAFTING REQUEST

Bill

Received: **1/2/2013** Received By: **pgrant**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget 266-1037** By/Representing: **Hynek**
May Contact: Drafter: **pgrant**
Subject: **Education - charter schools** Addl. Drafters:
Extra Copies: **TKK**
FFK

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Hynek, BB0333 -

Topic:

Restrict charter school requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 1/2/2013	kfollett 1/4/2013	jmurphy 1/7/2013	_____			
/1	pgrant 1/22/2013	kfollett 1/22/2013	rschluet 1/23/2013	_____	mbarman 1/7/2013		
/2				_____	mbarman 1/23/2013		State S&L

FE Sent For:

<END>

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/?	pgrant 1/2/2013	kfollett 1/4/2013	jmurphy 1/7/2013	_____			
/1		12/6/12 1/22	 1/22/13	_____	mbarman 1/7/2013		

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<END>

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/?	pgrant	1/1/5f 1/4	Jan 11/4/13	1/3 ph/ff			

FE Sent For:

<END>

Grant, Peter

From: Hanaman, Cathlene
Sent: Wednesday, January 02, 2013 8:08 AM
To: Grant, Peter; Kuczenski, Tracy; Knepp, Fern
Subject: FW: [Possible SPAM] Statutory Language Drafting Request - BB0333
Importance: Low

From: Sara.Hynek@Wisconsin.gov [mailto:Sara.Hynek@Wisconsin.gov]
Sent: Friday, December 28, 2012 2:15 PM
To: Hanaman, Cathlene
Cc: Hynek, Sara - DOA; Hynek, Sara - DOA; Thornton, Scott - DOA
Subject: [Possible SPAM] Statutory Language Drafting Request - BB0333
Importance: Low

Biennial Budget: 2013-15

DOA Tracking Code: BB0333

Topic: Charter School Mandates

SBO Team: EWD

SBO Analyst: Hynek, Sara - DOA
Phone: (608) 266-1037
E-mail: Sara.Hynek@Wisconsin.gov

Agency Acronym: DPI

Agency Number: 255

Priority: Medium

Intent:

Provide that, for non-2r charters, school districts cannot use the charter school contract to impose requirements that regular schools would be subject to but charter schools would not under the statutes (for example, curriculum requirements).

Attachments: False

Please send completed drafts to statlanguage@wisapps.wi.gov

Date (time)
needed _____

LRB- 0957/1
PG : 5f : _____

DOA BUDGET DRAFT

Use the appropriate components and routines developed for bills.

>>FOR BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT ... [DO NOT generate catalog]; **relating to:** the budget.

.....

.....

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: **create → anal: → title: → head**

For the subheading, execute: **create → anal: → title: → sub**

For the sub-subheading, execute: **create → anal: → title: → sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: **create → anal: → text**

(attached)

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

✓

Section #. 118.40 (3) (a) of the statutes is amended to read:

118.40 (3) (a) If the school board grants the petition under sub. (2), the school board shall contract with the person named in the petition under sub. (1m) (b) 1. to operate the school as a charter school under this section. The contract shall include all of the provisions specified in the petition and may include other provisions agreed to by the parties.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346; 2007 a. 222; 2009 a. 28, 61, 276; 2011 a. 10, 32, 105.

✓

except as provided in sub. (4)(b)

✓
Section #. 118.40 (7) (b) of the statutes is amended to read:

118.40 (7) (b) Except as otherwise explicitly provided, chs. 115 to 121 do not apply to charter schools.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346; 2007 a. 222; 2009 a. 28, 61, 276; 2011 a. 10, 32, 105.

~~and a school board may not~~
contract (2m) or

In a contract under sub. (3)(a),

a school board may not impose any

requirements on the operator of a

charter school any requirement in

chs. 115 to 121 that does not explicitly

apply to charter schools.

Nonstat File Sequence:

E E E

LRB _____/_____/_____

_____:_____:_____

INITIAL APPLICABILITY

1. In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the budget action phrase, execute: create → action: → *NS: → 93XX
For the text, execute: create → text: → *NS: → inappl
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # 93 ³ 4]. Initial applicability;

..... public instruction

(#1) ()

..... The treatment of sections / ..
..... 118.40 (7)(b) ✓

..... of the statutes
first applies to ... contracts entered into, modified, extended,
or renewed on the effective date of this
subsection:

End

1. In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the text, execute: create → text: → *NS: → inapplA
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ____ . Initial applicability;

(#1) () This act first

applies to

Analysis

otherwise
unless explicitly
provided,

EDUCATION

PRIMARY AND SECONDARY EDUCATION

Current law provides that, the school code (chapters 115 to 121 of the Wisconsin statutes) does not apply to charter schools. This bill prohibits a school board from ^{imposing} imposing on the operator of a charter school any requirement in the school code that does not explicitly apply to charter schools.

Grant, Peter

From: Hynek, Sara - DOA <Sara.Hynek@Wisconsin.gov>
Sent: Tuesday, January 22, 2013 10:16 AM
To: Grant, Peter
Subject: RE: LRB 0951 - charter school requirements

Hi Peter – yes, I think this would just be for instrumentality charters.

I don't think we want to say "equal." I was looking for a word that means "as equal as possible." Any thoughts? I think we could use average, and I think we would want the amount to be the aid + levy per pupil amount (is that "cost"?).

On your last point – I thought about this, as this does seem to get a bit in the way of the school board's duties/responsibilities. However, I also thought that perhaps "employ" could mean that instrumentality charter employees are employees of the district. I think the charter operators want to be able to make hiring decisions, staffing level decisions and determine the employment contract provisions for all of their staff without the board's oversight – can we have them do all of that and the board simply be the hiring-agency-of-record? Do you think this goes too far? If so, could we require the board to make final hiring decisions based upon input from the charter operator, in accordance with criteria and plans put forth by the operator?

From: Grant, Peter [<mailto:Peter.Grant@legis.wisconsin.gov>]
Sent: Tuesday, January 22, 2013 9:27 AM
To: Hynek, Sara - DOA
Subject: RE: LRB 0951 - charter school requirements

Hi Sara,

A few questions, if you don't mind. In the current draft of LRB-0951, should the restriction apply only to charters that are instrumentalities of the school district?

In item 1, what does "commensurate" mean? Does it mean that the payment must be *equal to* the district's per pupil spending amount? And I know you asked that "per pupil spending" remain vague, but do you mean the *average* per pupil cost? (I think that even with the addition of "average," the term will remain vague.) Also, are you making a distinction between cost and spending? In other words, does "spending" include state aid, or only the tax levy?

In item 2, I'm a little confused about personnel decisions. In an instrumentality charter, the school board employs all personnel for the charter school. I think that implies that the school board determines whom to hire. Do you want to change that? If so, in what way? What personnel decisions will be for the school board and what personnel decisions will be for the operator?

Peter

From: Hynek, Sara - DOA [<mailto:Sara.Hynek@Wisconsin.gov>]
Sent: Monday, January 21, 2013 2:18 PM
To: Grant, Peter
Subject: LRB 0951 - charter school requirements

Hi Peter – some additional guidance on this one.

In addition to not imposing current law requirements, the contracts between an instrumentality charter and a school board should:

1. Specify a per pupil payment amount to be made to the charter operator that is commensurate with the district's per pupil spending amount in non-charter schools; and
2. Provide the charter operator with sole discretion over school budget and expenditures, hiring decisions and personnel policies (subject to current law requirements), curriculum, and professional development activities, except that sole discretion need not be provided where the issues affect health and safety as determined by the school board.

I know that #1 is vague as far as what per pupil spending means, but it has been requested to remain vague.

Thanks!

Sara Hynek
Team Leader, Education and Workforce Development Team
State Budget Office
Wisconsin Department of Administration
608-266-1037



State of Wisconsin
2013 - 2014 LEGISLATURE

DN



LRB-0951/1

PG:kjf/jm

DOA:.....Hynek, BB0333 - Restrict charter school requirements

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ... relating to:** the budget.

contract between a

and

that is an instrumentality
of the school district
from imposing on the
operator

**Analysis by the Legislative Reference Bureau
EDUCATION**

PRIMARY AND SECONDARY EDUCATION

Current law provides that, unless otherwise explicitly provided, the school code (chapters 115 to 121 of the Wisconsin statutes) does not apply to charter schools. This bill prohibits a school board ~~from imposing on~~ the operator of a charter school any requirement in the school code that does not explicitly apply to charter schools.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 118.40 (3) (a) of the statutes is amended to read:

118.40 (3) (a) If the school board grants the petition under sub. (2), the school board shall contract with the person named in the petition under sub. (1m) (b) 1. to operate the school as a charter school under this section. The contract shall include all of the provisions specified in the petition and may include other provisions agreed to by the parties, ^{otherwise} except as provided in sub. (7) (b).

this section

(3)(h)
1 SECTION 2. 118.40 (7) (b) of the statutes is amended to read:

2 118.40 (7) (b) ~~Except as otherwise explicitly provided, chs. 115 to 121 do not~~
3 ~~apply to charter schools. In a contract under sub. (2m) or (3) (a), a school board may~~
4 ~~not impose on the operator of a charter school any requirement in chs. 115 to 121 that~~
5 ~~does not explicitly apply to charter schools.~~ } plain

2-5 →
6 SECTION 9334. Initial applicability; public instruction.

7 (1) The treatment of sections 118.40 (7) (b) of the statutes first applies to
8 contracts entered into, modified, extended, or renewed on the effective date of this
9 subsection.

10 (END)

(2m) (a) and
(3) (a), (b), and (i)

O-Note

1-2

Section #. 118.40 (2m) (a) of the statutes is amended[✓] to read:

118.40 (2m) (a) A school board may on its own initiative contract with a person to operate a school as a charter school. The contract shall include all of the provisions specified under sub. (1m) (b) and may include other provisions agreed to by the parties.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346; 2007 a. 222; 2009 a. 28, 61, 276; 2011 a. 10, 32, 105.

except as otherwise provided in this section

2-5 : 1

Section #. 118.40 (3) (b) of the statutes is amended to read:

118.40 (3) (b) A contract under par. (a) or under subs. (2m) or (2r) may be for any term not exceeding 5 school years and may be renewed for one or more terms not exceeding 5 school years. The contract shall specify the amount to be paid to the charter school during each school year of the contract. except as provided in par. (i) 1.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346; 2007 a. 222; 2009 a. 28, 61, 276; 2011 a. 10, 32, 105.

2-5:2

SEC. * OR, 118.40 (3)(i)¹118.40 (3)(i) A contract under ^{par. (a) or} sub. (2m)~~organization~~ in which the charter school is

an instrumentality of the school district, as

provided in sub. (1), shall do all of
the following:1. ^{Specify} The amount the school boardwill pay to the operator of the charter school
for each resident pupil attending the charter
school. The amount shall be commensurate
with the average per pupil cost for the school
district.2. Grant the operator of the charter
school ^{sole} ~~with~~ sole discretion over the
charter school's budget, curriculum, and

2-5 : 3

professional development, except where

decisions in these areas affect the health or
safety of pupils or staff, as determined

by the school board.

and notwithstanding sub. (7)(a) and

(am), provide the operator of the charter

school with sole discretion over the hiring

for the charter school,

of personnel and personnel policies, except

where a decision in any of these areas affects the health

or safety of pupils or staff, as determined

by the school board.

3. Not impose on the operator of the charter school
any requirement in

chs. 115 to 121 that does not explicitly apply

to charter schools.

2-5-41

Section #. 118.40 (7) (ar) of the statutes is amended to read:

118.40 (7) (ar) Nothing in this ~~subsection~~ ^{section} affects the rights of personnel of a charter school that is an instrumentality of a school district to engage in collective bargaining pursuant to subch. IV of ch. 111.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346; 2007 a. 222; 2009 a. 28, 61, 276; 2011 a. 10, 32, 105.

(A)

¶ The bill also requires that a contract between a school board and the operator of a charter school that is an instrumentality of the school district for the following:

1. specify the amount to be paid to the charter school operator for each pupil attending the charter school. The amount must be commensurate with the average per pupil cost for the school district.

2. Grant the charter school operator sole discretion over the charter school's budget, curriculum, and professional development activities, and over the hiring of personnel and personnel policies for the charter school, unless a decision in any of these areas affects the

A (cont.)

health or safety of pupils. The bill ^{does} does
not modify the ^{existing} ~~current~~ requirement that
the school board ^{employ} employ all personnel
for a charter school that is an
instrumentality of the school district.

FE-SL

DN

Date

LRB-0951/2dn
PG:kyf

Sana,

Regarding the employment of personnel for
an instrumentality charter school; ~~the draft~~
~~provides~~ current law requires the school district
to employ all ^{nnel} personnel, while this draft
grants to the charter school operator sole
discretion over the hiring of personnel and over
personnel policies. Okay? Assuming that the

INSERT
FROM
NEXT
PAGE

~~intent is to ensure~~ Note that current
law also provides that nothing in s. 118.40(7)
affects the ^{rights} of ^{nnel} personnel of an
instrumentality charter school to engage in
collective bargaining. See 118.40(7)(a^r). ✓

I amended this paragraph so that it

refers to "this section" ^{in order} to ensure that
 the new provision, granting to the
 operator sole discretion to hire ^{personnel} personnel,
 is also included in the reference. Okay?

I am not familiar with the
 requirements for participation in the WRS.
 Based on your request, however, I assume that
 actual control of ~~the~~ employees is

unnecessary for the employ^{er}, ~~or whether~~ and that
 merely cutting the employees' checks is
 sufficient. If this is not ^{true} true, ^{there} there
 may ~~well~~ be an issue.

move to
 previous
 page

PG

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0951/2dn
PG:kjfrs

January 23, 2013

Sara,

Regarding the employment of personnel for an instrumentally charter school: current law requires the school district to employ all personnel, while this draft grants to the charter school operator sole discretion over the hiring of personnel and over personnel policies. Okay?

I am not familiar with the requirements for participation in the WRS. Based on your request, however, I assume that actual control of employees is unnecessary for the employer and that merely cutting the employee's checks is sufficient. If this is not true, there may be an issue.

Note that current law also provides that nothing in s. 118.40 (7) affects the rights of personnel of an instrumentality charter school to engage in collective bargaining. See also s. 118.40 (7) (ar). I amended this paragraph so that it refers to "this section" in order to ensure that the new provision, granting to the operator sole discretion to hire personnel, is also included in the reference. Okay?

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0951/2

PG:kjfrs

DOA:.....Hynek, BB0333 – Restrict charter school requirements

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

Current law provides that, unless otherwise explicitly provided, the school code (chapters 115 to 121 of the Wisconsin statutes) does not apply to charter schools. This bill prohibits a contract between a school board and the operator of a charter school that is an instrumentality of the school district from imposing on the operator any requirement in the school code that does not explicitly apply to charter schools.

The bill also requires that a contract between a school board and the operator of a charter school that is an instrumentality of the school district do all of the following:

1. Specify the amount to be paid to the charter school operator for each pupil attending the charter school. The amount must be commensurate with the average per pupil cost for the school district.

2. Grant the charter school operator sole discretion over the charter school's budget, curriculum, and professional development activities, and over the hiring of personnel and personnel policies for the charter school, unless a decision in any of these areas affects the health or safety of pupils. The bill does not modify the existing requirement that the school board employ all personnel for a charter school that is an instrumentality of the school district.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 118.40 (2m) (a) of the statutes is amended to read:

2 118.40 (2m) (a) A school board may on its own initiative contract with a person
3 to operate a school as a charter school. The contract shall include all of the provisions
4 specified under sub. (1m) (b) and may include other provisions agreed to by the
5 parties, except as otherwise provided in this section.

6 **SECTION 2.** 118.40 (3) (a) of the statutes is amended to read:

7 118.40 (3) (a) If the school board grants the petition under sub. (2), the school
8 board shall contract with the person named in the petition under sub. (1m) (b) 1. to
9 operate the school as a charter school under this section. The contract shall include
10 all of the provisions specified in the petition and may include other provisions agreed
11 to by the parties, except as otherwise provided in this section.

12 **SECTION 3.** 118.40 (3) (b) of the statutes is amended to read:

13 118.40 (3) (b) A contract under par. (a) or under subs. (2m) or (2r) may be for
14 any term not exceeding 5 school years and may be renewed for one or more terms not
15 exceeding 5 school years. The contract shall specify the amount to be paid to the
16 charter school during each school year of the contract, except as provided in par. (i)
17 1.

18 **SECTION 4.** 118.40 (3) (i) of the statutes is created to read:

19 118.40 (3) (i) A contract under par. (a) or sub. (2m) in which the charter school
20 is an instrumentality of the school district, as provided in sub. (7), shall do all of the
21 following:

1. Specify the amount the school board will pay to the operator of the charter school for each resident pupil attending the charter school. The amount shall be commensurate with the average per pupil cost for the school district.

2. Grant the operator of the charter school sole discretion over the charter school's budget, curriculum, and professional development, and notwithstanding sub. (7) (a) and (am), over the hiring of personnel and personnel policies for the charter school, except where a decision in any of these areas affects the health or safety of pupils or staff, as determined by the school board.

3. Not impose on the operator of the charter school any requirement in chs. 115 to 121 that does not explicitly apply to charter schools.

SECTION 5. 118.40 (7) (ar) of the statutes is amended to read:

118.40 (7) (ar) Nothing in this subsection section affects the rights of personnel of a charter school that is an instrumentality of a school district to engage in collective bargaining pursuant to subch. IV of ch. 111.

SECTION 9334. Initial applicability; Public Instruction.

(1) The treatment of section 118.40 (2m) (a) and (3) (a), (b), and (i) of the statutes first applies to contracts entered into, modified, extended, or renewed on the effective date of this subsection.

(END)